

Memorandum 2021-28

**Statutes Made Obsolete by Trial Court Restructuring (Part 8):
Judicial Benefits (Discussion of Issues)**

The Commission is responsible for reviewing the codes to (1) identify material made obsolete by three major reforms of California's trial court system and (2) recommend statutory revisions to remove such material.¹ In the latest phase of that broad assignment (Part 8), the Commission has been examining statutes relating to judicial benefits,² as well as several other topics.³ This memorandum continues the Commission's work on statutes relating to judicial benefits.

The following materials are attached for the Commission to consider:

Exhibit p.

- Legislative History Materials From State Archives on 1959 Cal. Stat. ch. 1834 (AB 2134 (Willson))..... 1
- Letter from Barbara Gaal to Hon. Eric Taylor and Sherri R. Carter, Superior Court of California, County of Los Angeles (4/5/21) 9

1. See Gov't Code § 71674.

2. See Memorandum 2020-63; Memorandum 2021-9; First Supplement to Memorandum 2021-9; Minutes (Nov. 2020), pp. 4-5; Minutes (Feb. 2021), pp. 3-4.

Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

3. The Commission is currently studying:

- Statutes relating to representation and indemnification of trial courts and trial court personnel. See Memorandum 2021-21; *Draft Minutes* (April 2021), pp. 3-7.
- Statutes that refer to the superior court. See Memorandum 2021-22.

The Commission recently considered whether the statutes relating to judicial disqualification need revisions to reflect trial court restructuring. The Commission decided not to pursue that matter. See Memorandum 2021-10; *Draft Minutes* (March 2021), p. 4.

For information about the Commission's previous work on trial court restructuring, see Memorandum 2020-52, pp. 11-12 & Exhibit pp. 43-44; Memorandum 2018-05; *Statutes Made Obsolete by Trial Court Restructuring (Part 6): Court Facilities*, 46 Cal. L. Revision Comm'n Reports 25, 34-36 (2019).

• Response from Sherri R. Carter, Superior Court of California, County of Los Angeles (5/3/21)	12
• Excerpts from the Judges’ Retirement Law (Gov’t Code §§ 75000-75111)	13
• Excerpts from Judges’ Retirement System II (Gov’t Code §§ 75500-75613)	17

The memorandum begins by summarizing the Commission’s progress and decisions to date. The memorandum then provides further analysis of the remaining issues facing the Commission.

Unless otherwise indicated, all further statutory references in this memorandum are to the Government Code.

SUMMARY OF PROGRESS AND DECISIONS

In 2001, the Commission prepared and circulated a tentative recommendation that proposed hundreds of statutory revisions to remove material made obsolete by the following reforms:

- Trial court unification.
- Enactment of the Lockyer-Isenberg Trial Court Funding Act.
- Enactment of the Trial Court Employment Protection and Governance Act (“TCEPGA”).⁴

The tentative recommendation included a number of provisions relating to judicial benefits.⁵ Due to various concerns and unsettled issues, the Commission set aside those provisions for further study before it approved a final recommendation in 2002.⁶

Late last year, the Commission reviewed subsequent developments relating to judicial benefits and started reexamining the judicial benefit statutes that it set aside for further study.⁷ Thus far, the Commission has decided to include the following proposed reforms in a tentative recommendation:

- Articles 9, 16, 20, 25, and 30 of Chapter 10 of Title 8 should be revised to include a sunset provision, which would repeal the article in fifty years, subject to a saving clause. The accompanying

4. Tentative Recommendation on *Statutes Made Obsolete by Trial Court Restructuring* (Nov. 2001) (hereafter, “2001 Tentative Recommendation”).

5. See Memorandum 2020-63, p. 3, n. 16.

6. See Minutes (March 2002), p. 25.

7. See Memorandum 2020-63; Memorandum 2021-9; First Supplement to Memorandum 2021-9.

Comment for each article should expressly state that the saving clause applies to the repeal pursuant to the sunset provision.⁸

- Section 77210 should be revised to include a sunset provision, which would repeal the section in fifty years, subject to a saving clause. The accompanying Comment should expressly state that the saving clause applies to the repeal pursuant to the sunset provision.⁹

The Commission has also decided *not* to propose any revisions of Sections 69893.7, 69907, or 69909.¹⁰ Similarly, it has decided *not* to propose to revise the parts of Section 69894.3 that relate to benefits of judges and jurors.¹¹

The remaining provisions from the 2001 tentative recommendation are:

- The balance of Section 69894.3, which primarily relates to court employees and transfer rights.
- Section 69894.4, relating to travel expense allowances of certain court personnel.
- Section 53200.3, relating to county group insurance.
- Section 53214.5, relating to county deferred compensation plans.

These provisions were analyzed in materials for the Commission's February meeting (including written comments from the superior courts in Los Angeles County and San Bernardino County),¹² but the Commission did not reach decisions about how to handle them.

Rather, after considering testimony from representatives of San Bernardino County and the superior court of that county, and asking lots of questions about Sections 69894.3 and 69894.4, the Commission directed the staff to:

8. Minutes (Nov. 2020), p. 3. The saving clause would state:

If a right, right, privilege, duty, authority, or status, including, but not limited to, a qualification for office, salary range, or employment benefit, is based on a provision of law repealed by this act, and if a statute, order, rule of court, memorandum of understanding, or other legally effective instrument provides that the right, duty, authority, or status continues for a period beyond the effective date of the repeal, that provision of law continues in effect for that purpose, notwithstanding its repeal by this act.

See Memorandum 2020-63, p. 13. This is the same saving clause that the Legislature used (on Commission recommendation) in 2002, when repealing numerous other provisions that specified employment terms of municipal court personnel. See 2002 Cal. Stat. ch. 784, § 622.

9. Minutes (Nov. 2020), pp. 3-4. For the text of the saving clause, see *supra* note 8.

10. Minutes (Nov. 2020), p. 4. Section 69893.7 contains obsolete material but relates in part to court reporter compensation, which is still an unsettled area. The Commission plans to deal with this section comprehensively when the court reporter compensation issues are ripe for cleanup. *Id.*; see also Minutes (Aug. 2020), p. 3.

11. Minutes (Feb. 2021), p. 4.

12. See Memorandum 2021-9; First Supplement to Memorandum 2021-9.

- (1) Seek legislative history information from State Archives that might shed light on the intended scope of Sections 69894.3 and 69894.4.
- (2) Request further input from the Superior Court of Los Angeles County regarding its position on Section 69894.4.¹³

As discussed below, the staff has since followed up on those instructions.

FURTHER ANALYSIS OF THE REMAINING ISSUES

The rest of this memorandum attempts to provide sufficient information for the Commission to decide how to handle the remaining issues, at least for purposes of a tentative recommendation. In considering the information presented and any gaps in it, Commissioners should bear in mind that a tentative recommendation not only serves to canvas stakeholder views, but can also be an important means of gathering additional factual information about reforms under consideration. While the Commission should make a good effort to develop a sound approach before including it in a tentative recommendation, it may not yet be possible to discern the full picture and optimal solution.

Like the memorandum for the February meeting,¹⁴ the discussion below is organized as follows:

- Scope of Sections 69894.3 and 69894.4.
- Section 69894.4.
- Section 69894.3.
- Section 53200.3.
- Section 53214.5.

The memorandum concludes by discussing some judicial benefit statutes that were not included in the 2001 tentative recommendation.

Scope of Sections 69894.3 and 69894.4

Section 69894.4 expressly applies to “judges of the superior court in each county having a population of over 2,000,000” Similarly, Section 69894.3 expressly applies to “[e]mployees of the superior court in each county having a population of over 2,000,000”

Neither section specifies which census to use in determining the county population. As discussed in February’s memorandum,¹⁵ that might be

13. Minutes (Feb. 2021), pp. 3-4.

14. Memorandum 2021-9.

15. See Memorandum 2021-9, pp. 3-4.

problematic, because the number of counties with a population over 2,000,000 has changed over time. Of particular note:

- When Sections 69894.3 and 69894.4 were added to the codes in 1959, Los Angeles County was the only county in the state with a population over 2,000,000.¹⁶
- Based on the 2010 federal census, five counties had a population of over 2,000,000: Los Angeles, Orange, Riverside, San Bernardino, and San Diego.¹⁷ The same was true in 2019, according to population estimates from the U.S. Census Bureau.¹⁸
- County-by-county data from the 2020 federal census is not yet available.

The text of Sections 69894.3 and 69894.4 thus fails to clearly identify the county or counties to which the sections apply. It is necessary to look beyond the statutory text for insight on that matter.

2001 Legal Analysis

When preparing the 2001 tentative recommendation on trial court restructuring, the staff encountered a number of statutes with ambiguities similar to the one described above, so the staff did some research on them.¹⁹ In an internal memorandum, former staff attorney Lynne Urman concluded that “statutes of this nature” — i.e., ones that apply to a county with a population of a certain size, but do not specify how to determine the county population — should “be interpreted to apply to all counties within the classification *as determined by the latest federal census*”²⁰

Her memorandum does not specifically discuss Sections 69894.3 and 69894.4, but it does discuss a similar statute in the same article (Section 69890). It says:

Section 69890 is part of Article 8, which was added in 1953. Other sections in Article 8 were subsequently amended or later added to refer to a specific census. *Thus, where the legislature wanted a particular statute to apply only to a particular county, it included a reference to a specific census. Therefore, the assumption can be made that*

16. See <https://www2.census.gov/library/publications/decennial/1950/pc-08/pc-8-04.pdf> (“1950 Census of Population”).

17. See Table 4 in <https://www.census.gov/prod/cen2010/cph-2-6.pdf> (county-by-county figures from 1970 to 2010).

18. See <https://www.census.gov/content/census/en/search-results.html?stateGeo=none&q=california%20population%20ca&searchtype=web&page=1> (2019 CA county-by-county population estimates from US Census Bureau).

19. See First Supplement to Memorandum 2021-9, Exhibit pp. 4-8 (excerpt from 2001 internal memorandum).

20. *Id.* at Exhibit p. 8 (emphasis added).

*the legislature's lack of action in that regard with other sections that do not reference a particular date indicates an intent that these statutes apply to all counties that fall within the population classifications at the time of enactment and thereafter.*²¹

Like Section 69890, Sections 69894.3 and 69894.4 were added to Article 8 in the 1950's,²² but were never amended to refer to a specific census. Because other sections in the same article *do* refer to a specific census, it could (but need not necessarily) be inferred that this omission was deliberate, rather than inadvertent.²³ If so, it would be most natural to interpret Sections 69894.3 and 69894.4 to apply to a "county having a population of over 2,000,000" *as measured by the most recent census, not by an outdated census.*

In its most recent letter to the Commission, Los Angeles County Superior Court interprets the sections in this manner:

Regarding the question of whether Government Code sections 69894.3 and 69894.4 apply only to Los Angeles County, by their own terms, they apply in each county having a population of over 2,000,000. According to the United States Census Bureau, that now includes San Diego County (3,338,330), Orange County (3,175,692), Riverside County (2,470,546), and San Bernardino County (2,180,085).²⁴

The court also says, however, that "[h]ow broadly the statute applies is under the purview of the Legislature."²⁵

Legislative History Materials From State Archives

As the Commission directed in February, the staff contacted State Archives and requested legislative history materials on the 1959 enactment of Sections 69894.3 and 69894.4, in hopes that such materials would shed light on the proper interpretation of those sections. Despite the pandemic, employees at State Archives conducted the necessary research and provided a set of responsive documents, at no cost (see Exhibit pages 1-8). We are grateful for this excellent service.

21. *Id.* at Exhibit p. 4 (emphasis added).

22. See 1959 Cal. Stat. ch. 1834, §§ 10, 11 (adding Sections 69894.3 and 69894.4 to the Government Code).

23. See generally *People v. Soto* (2018) 4 Cal.5th 968, 975 (under *expressio unius est exclusio alterius* rule of statutory interpretation, explicit mention of some things in text may imply that other matters not similarly addressed are excluded). The *expressio unius* inference "arises only when there is some reason to conclude an omission is the product of intentional design." *Howard Jarvis Taxpayer Ass'n v. Padilla* (2016) 62 Cal.4th 486, 514.

24. Exhibit p. 12 (footnote omitted).

25. *Id.*

Before turning to the documents from State Archives, it is important to note that ever since they were first enacted, Sections 69894.3 and 69894.4 have applied to court personnel in a “county having a population of over 2,000,000.”²⁶ Section 69894.3 has been amended several times since it was enacted, but the quoted language has not changed.²⁷ Section 69894.4 has never even been amended.

The documents from State Archives strongly suggest that the 1959 bill enacting Sections 69894.3 and 69894.4 and making various other changes (Assembly Bill 2134 (Willson)) was intended to apply only in Los Angeles County. Of particular importance, a letter from the author to the governor says:

This bill was given to me to carry by Los Angeles County representatives. It applies *only* to the Los Angeles County Superior Court.

The purpose of this bill is to revise and consolidate provisions relating to compensation of officers and employees of the Los Angeles County Superior Court.²⁸

Other materials are less explicit, but nonetheless reinforce the same conclusion. For example, a report prepared by a deputy legislative counsel says that AB 2134 “[r]evises and consolidates the provisions providing for the number and compensation of the officers and employees of the *Los Angeles County Superior Court*.”²⁹ A memorandum to the governor from his legislative secretary contains an almost identical statement; it further reports that the Los Angeles County Counsel and the presiding judge of Los Angeles County Superior Court urge approval of the bill (it does not mention any other supporters).³⁰ Similarly, the subject of a letter from the Los Angeles County Counsel to the governor is “Assembly Bill 2134, Relating to Salaries for *Los Angeles County Superior Court Attaches*.”³¹ A letter by Assemblyman Marks likewise treats AB 2134 as if it relates solely to Los Angeles County.³²

None of the materials from State Archives contain anything suggesting that any aspect of AB 2134 could potentially apply to another county. They do not mention the bill’s references to a “county having a population over 2,000,000,”

26. See 1959 Cal. Stat. ch. 1834, §§ 10, 11 (adding Sections 69894.3 and 69894.4 to the Government Code).

27. See 1961 Cal. Stat. ch. 777, § 3; 1963 Cal. Stat. ch. 1315, § 1; 1967 Cal. Stat. ch. 648, § 1; 1967 Cal. Stat. ch. 1521, § 3.5; 1994 Cal. Stat. ch. 995, § 3.

28. Exhibit p. 5 (emphasis added).

29. Exhibit p. 4 (emphasis added).

30. Exhibit p. 8.

31. Exhibit p. 1 (emphasis added).

32. Exhibit pp. 6-7.

much less explain why it uses that language instead of referring directly to “Los Angeles County.” Presumably, whoever drafted the bill was seeking to comply with the constitutional provision limiting the validity of local statutes.³³

Suggested Approach

Given the foregoing, the most reasonable interpretation is that Sections 69894.3 and 69894.4 apply only to Los Angeles County. The materials from State Archives are direct evidence of legislative intent, which overrides the inferential reasoning used in the 2001 internal memorandum.³⁴

Thus, **in determining whether Sections 69894.3 and 69894.4 require revisions to reflect trial court restructuring, the Commission probably can safely focus on the court situation in Los Angeles County.** It seems unlikely, but not inescapable, that those statutes are supposed to pertain to any of the other counties with a current population over 2,000,000.

Because the intended scope of Sections 69894.3 and 69894.4 is hard to discern without in-depth research, **it is tempting to propose revisions expressly specifying which federal census to use in assessing county population** (assuming the statutes are not ripe for repeal). Such revisions would be unrelated to trial court restructuring, but would fall within the Commission’s authority to “correct technical or minor substantive defects.”³⁵

If the Commission pursues this clarification, the census to use would be the one from 1950, which was most current when Sections 69894.3 and 69894.4 were enacted. In that census, Los Angeles was the only county with a population over 2,000,000.

The same result could be achieved by revising Sections 69894.3 and 69894.4 to refer to a “county of the first class, as determined by Sections 28020 and 28022,” instead of a “county having a population of over 2,000,000.” Los Angeles is the only county that would fall into this category:

- Section 28022 says: “Counties containing a population of 4,000,000 and over are counties of the first class.”

33. Cal. Const. art. IV, § 16(b) (“A local or special statute is invalid in any case if a general statute can be made applicable.”). As explained in *Carr v. Kingsbury* (1931) 111 Cal.App. 165, 172, “an act is considered general in its effect if it applies to all cities, counties, or persons within a well-defined class.”

34. See generally *Silverbrand v. County of Los Angeles* (2009) 46 Cal.4th 106, 126 (inference of “expressio unius est exclusio alterius” is always subordinate to legislative intent).

35. Section 8298.

- Section 28020 (most recently amended in 1971) lists the population of each county. Los Angeles is the only county in that list with a population exceeding 4,000,000. It is also the only county in that list with a population exceeding 2,000,000.

This approach might be more difficult to explain and justify than referring directly to the 1950 census. The staff is not sure whether it would have any significant advantage. We will look into that issue before the upcoming meeting.

Another reasonable possibility would be to leave the references to a “county having a population of over 2,000,000” alone. The statutes appear to have functioned satisfactorily for many years without the clarification described above. Perhaps there is no real need for it.

Which approach would the Commission like to follow?

Section 69894.4. Expense Allowances

Section 69894.4 relates to travel expenses of certain court personnel. It provides:

69894.4. All of the employees provided for in Section 69894.1 and judges of the superior court in each county having a population of over 2,000,000 shall be allowed actual traveling and necessary expenses incurred while engaged in the duties of their office, which shall be the same as allowed to officers and employees of such county. Any expenses for travel outside of the county shall require the prior approval of the board of supervisors.

Whenever, because of the nature of the duties of any judge or officer of the court, the board of supervisors determines that the best interest of the county and the court would be served, it may assign an automobile in lieu of allowing travel expenses.

The salaries provided for in said Section 69894.1 shall be paid by the county out of such fund as other salary demands against the county are paid. The expenses provided for in this section shall be paid in monthly installments out of the general fund. Salaries and expenses shall be audited in the same manner as the law requires for other demands against the county.

In the 2001 tentative recommendation, the Commission proposed to repeal Section 69894.4. The accompanying Comment said that the section was obsolete due to the enactment of the TCEPGA, the enactment of the Lockyer-Isenberg Trial Court Funding Act, and the enactment of Section 69505 (a then-new provision on business-related travel expenses of trial court judges and employees).³⁶

36. See 2001 tentative recommendation, *supra* note 4, at 236-37.

Los Angeles County Superior Court objected to the proposed repeal. The court acknowledged that most of Section 69894.4 appeared to be obsolete due to the enactment of Section 69505. It pointed out, however, that Section 69505 “makes no allowance for assignment of an automobile.”³⁷ The court therefore concluded that “[t]he portion of section 69894.4 pertaining to assignment of an automobile should be retained, substituting the Court as the entity determining whether an automobile in lieu of reimbursement would better serve the interests of the court.”³⁸

In light of those comments, the Commission withdrew Section 69894.4 from its proposal in 2002. It decided to defer work on the section until after the Judicial Council gave clear guidance on assignment of automobiles.³⁹

In the memorandum for February’s meeting, the staff turned back to Section 69894.4, pointing out that the Judicial Council now has a detailed set of rules entitled “Travel Expense Reimbursement for Trial Court Judges and Employees — Policy Number: Fin 8.03.”⁴⁰ Those rules address assignment of trial court automobiles, not just reimbursement of travel expenses. For example, Rule 6.1.3 says:

[U]nless it is a condition of employment, employees are not required to use their personal vehicle for business purposes. Requests for the use of trial court-owned vehicles should be submitted immediately after approval of a travel request requiring a vehicle.⁴¹

Given the adoption of these Judicial Council rules, the staff suggested that, for purposes of a tentative recommendation, the Commission should again propose to repeal Section 69894.4 as obsolete.⁴² Before the Commission met to consider that suggestion, however, Los Angeles County Superior Court submitted a letter stating that it “opposes the repeal of GC 69894.4.”⁴³ The court explained that “[e]xisting Judicial Council policy provides insufficient clarity regarding the assignment of automobiles and the Court currently relies upon the authority provided by GC 69894.4 for this purpose.”⁴⁴ The court did not elaborate further on this matter.

37. Memorandum 2001-14, Exhibit p. 57 (comments of Los Angeles County Superior Court).

38. *Id.*

39. Minutes (March 2002), pp. 13-14; see also Memorandum 2002-17, p. 27.

40. See Memorandum 2021-9, Exhibit pp. 5-36.

41. Memorandum 2021-9, Exhibit p. 8.

42. See Memorandum 2021-9, pp. 6-7.

43. First Supplement to Memorandum 2021-9, Exhibit p. 1.

44. *Id.*

At the February meeting, the Commission raised questions about why the court considers the Judicial Council's policy insufficient, and whether the court would object to amending Section 69894.4 in some manner, rather than repealing it. The Commission directed the staff to seek more information from the court about its position and reasoning.⁴⁵

The staff therefore sent a letter to the court's presiding judge (Hon. Eric Taylor) and executive officer (Sherri Carter) requesting further information and encouraging the court to have a representative participate in a Commission meeting.⁴⁶ Recognizing that the court might prefer to provide additional written input, the staff tried to convey the Commission's concerns specifically enough to facilitate a response that would fully address them.

In particular, the staff wrote:

Why does your court say that "[e]xisting Judicial Council policy provides insufficient clarity regarding the assignment of automobiles? Does Government Code Section 69894.4 add anything other than statutory authority?⁴⁷

The staff also asked whether the court would object to amending Section 69894.4 along the lines that the court itself suggested in 2001 — i.e., (1) retaining only the language relating to assignment of an automobile, and (2) letting the court, instead of the county, determine whether to assign an automobile in lieu of reimbursement.⁴⁸ As shown in the staff's letter,⁴⁹ that approach could be implemented as follows:

§ 69894.4 (amended). Expense allowances

SEC. _____. Section 69894.4 of the Government Code is amended to read:

~~69894.4. All of the employees provided for in Section 69894.1 and judges of the superior court in each county having a population of over 2,000,000 shall be allowed actual traveling and necessary expenses incurred while engaged in the duties of their office, which shall be the same as allowed to officers and employees of such county. Any expenses for travel outside of the county shall require the prior approval of the board of supervisors.~~

45. Minutes (Feb. 2021), p. 4.

46. See Exhibit pp. 9-11.

47. Exhibit p. 10.

48. See *id.*

49. See Exhibit p. 11.

~~Whenever, In each county having a population of over 2,000,000, whenever, because of the nature of the duties of any judge or officer of the court, the board of supervisors court determines that the best interest of the county and the court would be served, it may assign an automobile in lieu of allowing travel expenses.~~

~~The salaries provided for in said Section 69894.1 shall be paid by the county out of such fund as other salary demands against the county are paid. The expenses provided for in this section shall be paid in monthly installments out of the general fund. Salaries and expenses shall be audited in the same manner as the law requires for other demands against the county.~~

Comment. Section 69894.4 is amended to reflect:

(1) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71620 (trial court personnel), 71623 (salaries), 71673 (authority of court).

(2) Enactment of Section 69505 (business-related travel expenses of trial court judges and employees).

(3) Enactment of the Trial Court Funding Act. See Sections 77001 (local trial court management), 77003 (“court operations” defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations); see also Cal. R. Ct. 810 (further definition of “court operations”).

(4) Repeal of former Section 69894.1. See 2002 Cal. Stat. ch. 784, § 310; see also *Statutes Made Obsolete by Trial Court Restructuring: Part 1*, 32 Cal. L. Revision Comm’n Reports 1, 279-80 (2002).

On behalf of Los Angeles County Superior Court, its executive officer replied that “the Court agrees with the proposed amendments.”⁵⁰ She did not provide any new information on why the court considers it necessary to retain the language relating to assignment of an automobile.

It seems possible, however, that the court simply prefers to rely on statutory authority for assignment of an automobile, rather than the non-statutory Judicial Council policies. As the staff pointed out in 2001,⁵¹ Section 69505 *only* directs the Judicial Council to adopt policies on *reimbursement of travel expenses*; it does *not* expressly require policies on *assignment of an automobile*.⁵² The court may want

50. Exhibit p. 12.

51. See Memorandum 2002-17, p. 27.

52. Section 69505 provides:

more certainty that the latter type of policies remain in place than the non-statutory Judicial Council policies provide.

That strikes the staff as a reasonable viewpoint. Moreover, the court's view deserves strong weight in assessing Section 69894.4, given the likelihood that the section is only meant to apply in Los Angeles County. **For purposes of a tentative recommendation, we therefore recommend that the Commission propose to amend Section 69894.4 as shown above.**

Would the Commission like to follow that approach? If not, how would it like to handle Section 69894.4?

Section 69894.3. Court Personnel

Section 69894.3 is a lengthy provision relating to court personnel. It provides:

69894.3. Employees of the superior court in each county having a population of over 2,000,000 shall be entitled to step advancement, vacation, sick leave, holiday benefits and other leaves of absence and other benefits as may be directed by rules of the court. Where statutes require implementation by local ordinances for the extension of benefits to local officers and employees, these may be made applicable by rule to court personnel, including but not limited to jurors, and judges.

These benefits shall also include the same lump sum payments for sick leave and vacation for the superior court employees when they are separated from the service as are made to county employees of the county; except that lump-sum payments to court commissioners when separated from the service of the superior court shall be limited to accrued vacation if any, as is provided by local rule of court, exclusive of accrued sick leave.

Court employees under this section shall have the right to transfer to other departments in the county government, subject to the approval of the board of supervisors, the county charter, and other usual conditions that may be placed upon the transfer, including, but not limited to, a requirement that the transferee

69505. Notwithstanding any other provision of law to the contrary, the following procedures shall apply for business-related travel expenses of judges and employees of the trial courts:

(a) The Administrative Director of the Courts shall annually recommend policies and schedules for reimbursement of travel expenses and procedures for processing these requests, which shall be approved by the Judicial Council and shall be followed by the trial courts.

(b) Each court shall develop a system for presentation and approval of requests that shall ensure that requests are reviewed in an impartial and appropriate manner and that conforms to the policies, schedules, and procedures approved by the Judicial Council.

(c) The cost of the approved requests shall be paid from that court's Trial Court Operations Fund.

successfully complete an appropriate civil service examination. The right of transfer shall not give any employee any additional rights by reason of his employment with the court, other than those to which he would have been entitled if the employment had been with a different department of the county government.

Employment by the court shall be deemed to be employment by the county, if approved by rule of court, for the purpose of determining a court employee's rights with respect to a county's ordinances providing for salary step advancements and other employee benefits and rights, including, but not limited to, amount of compensation, vacations, sick leave, and accumulated sick leave.

In any such county attachés⁵³ may be voluntarily transferred from a position in one judicial district to a position in another within the county and promoted or voluntarily demoted from a position in one judicial district to a position in another within the county in substantially the same manner as transfers, demotions and promotions are authorized generally in county departments or between departments of the county.

Rules of the court may include other matters pertaining to the general administration of the court, including conditions of employment of court personnel, including but not limited to jurors and judges. When rules are adopted by a majority of the judges and filed with the Judicial Council they shall have the same status as other rules of court adopted pursuant to Section 68070.

When requested to do so by the court the county shall through the county civil service commission furnish to the court services as may be required in connection with the recruitment and employment of court officers and employees.

53. The term "attaché" is "not defined expressly in the code." *Seidler v. Municipal Court* (1993) 12 Cal.App.4th 1229, 1234. For purposes of a now-repealed municipal court statute (former Section 72002.1), the *Seidler* court examined the statutory scheme and concluded that "the clerk (court administrator), marshal, commissioners, jury commissioner and court reporters are officers of the court, while subordinate employees which some of these officers are authorized to appoint are attachés." *Id.* at 1235 (emphasis added).

A later decision interpreting the same statute explains:

The distinction between attachés and officers is based on one of the fundamental elements of the civil service system: "the practically universal presence of a set of excepted offices and positions termed *exempt* or *nonclassified*. With individual variations, civil service laws normally except designated offices and positions such as elective offices, appointive department heads, confidential assistants and temporary technical consultants.... Some of these exemptions are premised on the desirability of maintaining maximum responsiveness on the part of those holding high-echelon or 'sensitive' positions; others on the impracticability of recruitment via civil service."

Los Angeles County Employees Ass'n, SEIU, Local 660 v. Superior Court (2000) 81 Cal.App.4th 164, 171, *quoting* *Placer County Employees Ass'n v. Board of Supervisors* (1965) 233 Cal.App.2d 555, 558 (emphasis in original).

The staff will do further research on the definition of "attaché" if that proves necessary.

In the 2001 tentative recommendation, the Commission proposed to repeal this section.⁵⁴ The accompanying Comment said the section was obsolete due to the enactment of the TCEPGA and the enactment of the Lockyer-Isenberg Trial Court Funding Act.⁵⁵ The tentative recommendation also included a Note soliciting input on whether any aspect of the section remained useful, particularly the parts of it relating to judicial benefits, juror benefits, and transfer rights.

Judge James Bascue (the presiding judge of Los Angeles County Superior Court at the time) objected to the proposed repeal, explaining his concerns in detail.⁵⁶ The court itself also objected, relying on Judge Bascue's reasoning.⁵⁷

In response to those comments, the Commission removed Section 69894.3 from its proposal. That step gave it "more time to determine which of the numerous provisions in this section everyone agrees are obsolete and which require further work and negotiation among the interested parties."⁵⁸

In February of this year, the Commission began to revisit the section. For purposes of a tentative recommendation, it concluded that "[t]he parts of Section 69894.3 that relate to benefits of judges and jurors do not appear to be obsolete due to trial court restructuring."⁵⁹ Background information for that decision appears at pages 9-12 of Memorandum 2021-9.

The remainder of Section 69894.3 relates primarily to benefits and transfer rights of court employees. Those topics are addressed in the TCEPGA.⁶⁰ Nonetheless, Judge Bascue firmly maintained in 2001 that the parts of Section 69894.3 relating to benefits and transfer rights are not obsolete.⁶¹

Los Angeles County Superior Court takes the same position today. Its executive officer says that "rather than being a vestige of the days before the restructuring of trial court funding," Section 69894.3 and two other provisions⁶² "continue to provide necessary support (alongside more recent legislation) for an

54. See 2001 tentative recommendation, *supra* note 4, at 235-36.

55. See *id.* at 236.

56. See Memorandum 2002-14, Exhibit pp. 39-42 (comments of Judge Bascue).

57. See Memorandum 2002-14, Exhibit p. 56 (comments of Los Angeles County Superior Court).

58. See Memorandum 2002-14, p. 29; Minutes (March 2002), p. 11.

59. Minutes (Feb. 2021), p. 4.

60. See, e.g., Sections 71615(c)(4) (transfer rights), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71640-71645 (employment selection and advancement).

61. Judge Bascue's comments on these points are discussed at pages 13-14 and 15-16 of Memorandum 2021-9.

62. Sections 53200.3 and 53214.5, which are discussed later in this memorandum.

efficient, flexible and modern system of judicial branch employment.”⁶³ She explains that “the Court routinely cites GC 69894.3 as necessary authority (complementing the TCEPGA) in transactions involving trial court staff transfers.”⁶⁴ She further explains:

[T]he Court relies on the authority provided by GC 69894.3 in contracting for the Court’s participation in County benefit plans, including deferred compensation plans. This participation greatly increases the cost-effectiveness of trial court employee benefits and reflects the Legislature’s intent in passing the Lockyer-Isenberg Trial Court Funding Act of 1997 to allow court employees to retain access to local benefits provided to county employees. GC 69894.3 *remains a necessary authority for this purpose.*⁶⁵

Having considered these recent comments, Judge Bascue’s earlier comments, the Commission’s February decision to keep the parts of Section 69894.3 relating to judges and jurors intact, the background information supporting that decision, the substance of Section 69894.3, and the likelihood that the section applies only in Los Angeles County, **the staff recommends that the Commission leave Section 69894.3 as is.** As best we can tell, it does not contain any material made obsolete by trial court restructuring.

Is that approach acceptable to the Commission?

Section 53200.3. County Group Insurance

Section 53200.3 is a statewide statute relating to court personnel, including judges. It is in an article entitled “County Group Insurance,” which authorizes local agencies to arrange for their officers and employees to receive group health and welfare benefits.⁶⁶ Section 53200.3 extends that authority to court personnel in specified circumstances:

53200.3. For the limited purpose of the application of this article, judges of the superior and municipal courts and the officers and attachés⁶⁷ of said courts whose salaries are paid either in whole or in part from the salary fund of the county are county employees and shall be subject to the same or similar obligations and be granted the same or similar employee benefits as are now required or granted to employees of the county in which the court of said judge, officer, or attaché is located.

63. First Supplement to Memorandum 2021-9, Exhibit p. 2 (comments of Sherri Carter on behalf of Los Angeles County Superior Court).

64. *Id.* at Exhibit p. 1.

65. *Id.* (emphasis added).

66. See Sections 53200-53210.

67. For discussion of the term “attaché,” see *supra* note 53.

In the 2001 tentative recommendation, the Commission proposed to repeal this section. The accompanying Comment pointed out that the section appeared to be obsolete due to the enactment of the TCEPGA.⁶⁸

Judge Bascue expressed concerns about the proposed repeal,⁶⁹ which Los Angeles County Superior Court echoed.⁷⁰ They maintained not only that the parts of Section 53200.3 relating to judicial benefits were still useful, but also that the same was true of the parts relating to benefits of court officers and attachés.⁷¹

In light of their comments, the Commission decided to set Section 53200.3 aside for further study, instead of proceeding with the proposed repeal.⁷² The Commission has not revisited the matter since then, although the staff discussed it to some extent in the memorandum for February's meeting.⁷³

Among other things, we pointed out that in the intervening years, “the *Sturgeon* line of cases and the enactment of SB X2 11 have confirmed that the trial court restructuring reforms did not foreclose supplemental judicial benefits” (i.e., locally-provided benefits that trial court judges in some counties receive in addition to their state-provided compensation).⁷⁴ Rather, such benefits remain a significant component of compensation for judges in Los Angeles County and elsewhere.⁷⁵

It is also clear that Los Angeles County Superior Court continues to “oppos[e] the repeal of GC 53200.3.”⁷⁶ Its executive officer explains:

Retaining connection to county benefit programs for judges and staff remains an important and efficient strategy for many courts. The bargaining power and scale of county governments dwarf those of the local court and many courts maintain local county agreements as a cost-effective way to provide benefits.⁷⁷

68. See 2001 tentative recommendation, *supra* note 4, at 191.

69. See Memorandum 2002-14, Exhibit pp. 39-40.

70. See Memorandum 2002-14, Exhibit p. 55 (Los Angeles County Superior Court asserting that Section 53200.3 “[s]hould not be repealed” and “is the subject of separate comments submitted by Judge Bascue.”).

71. See Memorandum 2021-9, pp. 18-19.

72. Minutes (March 2002), p. 11.

73. See Memorandum 2021-9, pp. 17-20.

74. *Id.* at 19. For discussion of these legal developments, see Memorandum 2020-63, pp. 4-11.

75. See Judicial Council of California, Historical Analysis of Disparities in Judicial Benefits (2009).

76. First Supplement to Memorandum 2021-9, Exhibit p. 2 (comments of Sherri Carter on behalf of Los Angeles County Superior Court).

77. First Supplement to Memorandum 2021-9, Exhibit p. 1 (comments of Sherri Carter on behalf of Los Angeles County Superior Court).

She specifically points out that Los Angeles County Superior Court does not appear to be the only court that continues to rely on Section 53200.3 in providing benefits for court officers and attachés (in addition to judges):

[W]e have been told that there may be other courts that have agreements with their local counties through which the county pays for benefits of court personnel other than judges. Therefore, we believe that the authority provided by GC 53200.3 remains necessary for this purpose in those courts.⁷⁸

For these reasons, the section does not seem to be ripe for repeal on the basis of trial court restructuring.

Because municipal courts no longer exist, however, it might be appropriate to revise Section 53200.3 to reflect as much. As explained below, the Commission could approach this in several different ways.

Option #1: Belt-and-Suspenders

One way to address the municipal court reference in Section 53200.3 (Option #1) would be to use the same “belt-and-suspenders” approach that the Commission already tentatively approved for some of the other statutes in this study.⁷⁹ To protect municipal court retirees and their families, that approach would involve both a saving clause (draft language already approved)⁸⁰ and a fifty-year sunset period.

Here, however, implementing a fifty-year sunset period would be more cumbersome than in the contexts previously considered. Section 53200.3 applies not only to municipal courts but also to superior courts, so it could not simply be repealed pursuant to a sunset clause in fifty years. The section could be discontinued for former municipal court employees in fifty years, but it would need to remain in place indefinitely for superior court employees.

That could be achieved by (1) amending the existing provision to include a fifty-year sunset clause, and (2) adding a new version of Section 53200.3 to the codes, which would not refer to municipal court employees and would not become operative until fifty years have passed. In other words, **Option #1 would entail revisions along the following lines:**

78. First Supplement to Memorandum 2021-9, Exhibit p. 2 (comments of Sherri Carter on behalf of Los Angeles County Superior Court).

79. See “Summary of Progress and Decisions” *supra* (discussing tentative treatment of Section 77210 and Articles 9, 16, 20, 25, and 30 of Chapter 10 of Title 8).

80. See *supra* note 8.

§ 53200.3 (amended). County group insurance

SEC. _____. Section 53200.3 of the Government Code is amended to read:

53200.3. (a) For the limited purpose of the application of this article, judges of the superior and municipal courts and the officers and attachés of ~~said~~ those courts whose salaries are paid either in whole or in part from the salary fund of the county are county employees and shall be subject to the same or similar obligations and be granted the same or similar employee benefits as are now required or granted to employees of the county in which the court of ~~said~~ the judge, officer, or attaché is located.

(b) This section shall remain in effect only until January 1, 2073,⁸¹ and as of that date is repealed unless a later enacted statute, which is enacted before January 1, 2073, deletes or extends that date.

Comment. Section 53200.3 is amended to reflect unification of the municipal and superior courts pursuant to former Article VI, Section 5(e) of the California Constitution.

This amendment has no impact on vested rights of former municipal court judges, officers, and attachés. See __ Cal. Stat. __, § __ (saving clause).

The section is also amended to make technical corrections.

§ 53200.3 (added). County group insurance

SEC. _____. Section 53200.3 is added to the Government Code, to read:

53200.3. (a) For the limited purpose of the application of this article, judges of the superior courts and the officers and attachés of those courts whose salaries are paid either in whole or in part from the salary fund of the county are county employees and shall be subject to the same or similar obligations and be granted the same or similar employee benefits as are now required or granted to employees of the county in which the court of the judge, officer, or attaché is located.

(b) This section becomes operative on January 1, 2073.

81. If the Commission's proposed legislation was introduced and enacted next year, it would not become law until January 1, 2023. Fifty years later would be January 1, 2073.

Comment. With respect to superior court judges, officers, and attachés, Section 53200.3 continue former Section 53200.3 (1977 Cal. Stat. ch. 106, § 1) without substantive change.

Under this approach, there would be two different versions of the section in the codes for fifty years. That might occasionally cause some confusion or inconvenience.

Option #2: Defer Clean-Up to a Later Date

Another possibility (Option #2) would be to leave Section 53200.3 alone for the time being. The Commission recently took such an approach with regard to some provisions relating to retirement of constables,⁸² which were comparable in posture.⁸³ This is a simple and safe option, but it leaves the clean-up task for others (perhaps associated with the Commission or perhaps not) to undertake in the future. They would have to invest further resources and might not exercise the same degree of care under consideration here (e.g., the clean-up legislation might not include a saving clause).

Option #3: Delete Municipal Court Reference Now and Rely on Saving Clause

A further possibility (Option #3) would be to amend Section 53200.3 as shown below and rely on the saving clause to protect any vested rights that still exist:

§ 53200.3 (amended). County group insurance

SEC. _____. Section 53200.3 of the Government Code is amended to read:

53200.3. For the limited purpose of the application of this article, judges of the superior ~~and municipal~~ courts and the officers and attachés of ~~said~~ those courts whose salaries are paid either in whole or in part from the salary fund of the county are county employees and shall be subject to the same or similar obligations and be granted the same or similar employee benefits as are now required or granted to employees of the county in which the court of ~~said~~ the judge, officer, or attaché is located.

82. Constables were court security officers for the justice courts, which were eliminated in 1995.

83. See *Trial Court Restructuring Clean-Up: Obsolete "Constable" References*, 45 Cal. L. Revision Comm'n Reports 441, 449 (2018); see also Memorandum 2018-20, pp. 3-4.

Comment. Section 53200.3 is amended to reflect unification of the municipal and superior courts pursuant to former Article VI, Section 5(e) of the California Constitution.

This amendment has no impact on vested rights of former municipal court judges, officers, and attachés. See __ Cal. Stat. __, § __ (saving clause).

The section is also amended to make technical corrections.

This would be a simple way to accomplish the necessary statutory clean-up. For a number of reasons, it should provide sufficient protection for former municipal court personnel: (1) there would be a saving clause, (2) the proposed Comment would refer to the saving clause and state that the amendment “has no impact on vested rights of former municipal court judges, officers, and attachés,”⁸⁴ (3) almost two decades have already elapsed since the municipal courts were eliminated, and (4) Section 53200.3 only expressly refers to current judges, officers, and attachés, not to persons who formerly served in those positions (so the statutory reference to municipal court personnel might not be necessary to preserve whatever rights they may have accrued while working for a municipal court, such as post-retirement continuation of health or life insurance).

It seems likely (but not certain) that Los Angeles County Superior Court would find this approach acceptable. The most recent letter from its executive officer says: “Regarding the question of amending Government Code section 53200.3 to delete references to municipal courts as obsolete, the Court points out that there are no remaining employees of municipal courts in California.”⁸⁵

Selection of an Approach

Each of the above options has advantages and disadvantages, as previously described. The Commission needs to weigh the competing considerations and decide how to proceed, bearing in mind that Option #1 would be most consistent with the Commission’s earlier decisions in this study.

How would the Commission like to handle Section 53200.3 for purposes of a tentative recommendation?

84. The proposed Comment would be evidence of legislative intent. See *2019-2020 Annual Report*, 46 Cal. L. Revision Comm’n Reports 711, 727-34 (2019) & cases cited therein.

85. Exhibit p. 12.

Section 53214.5. County Deferred Compensation Plans

The last judicial benefits provision that the Commission set aside for future study in 2002 is Section 53214.5. It is in an article on deferred compensation plans, a topic that is also covered by the TCEPGA.⁸⁶ It provides:

53214.5. A county or city and county which pays the salaries, either in whole or in part, of judges of the superior and municipal courts and the officers and attachés of those courts may allow the judges, officers, and attachés to participate in any deferred compensation plan established pursuant to this article. Any county or city and county is hereby authorized to enter into a written agreement with the judges, officers, and attachés providing for deferral of a portion of their wages. The judges, officers, and attachés may authorize deductions to be made from their wages for the purpose of participating in the deferred compensation plan.

In the 2001 tentative recommendation, the Commission proposed to repeal Section 53214.5 as obsolete due to the enactment of the TCEPGA. Judge Bascue and Los Angeles County Superior Court objected, maintaining that the section should be left alone.⁸⁷

Los Angeles County Superior Court takes the same position today. Its executive officer explains:

The Court opposes the repeal of GC 53214.5. We reiterate what Judge Bascue wrote in the letter referred to in Memorandum 2021-09: “Together with section 71628, section 53214.5 establishes the basis for participation of court employees in county deferred compensation plans in Los Angeles County.” *GC 53214.5 continues to remain a necessary authority for this specific purpose, another part of the Court’s benefit plan.*⁸⁸

In light of these comments, it appears inappropriate to propose to repeal Section 53214.5 as obsolete. Instead, **the section should perhaps be amended to address the reference to municipal courts.** That would be less complicated than with the preceding provision (Section 53200.3), because this section permits judges, officers, and attachés to authorize deductions from their wages for the purpose of participating in a deferred compensation plan. There no longer are any municipal courts, much less judges, officers, or attachés receiving wages

86. See Section 71628, which is reproduced in Memorandum 2021-9 at Exhibit pages 40-42.

87. See Memorandum 2021-9, pp. 21-22 & Exhibit pp. 1-3.

88. First Supplement to Memorandum 2021-9, Exhibit p. 2 (comments of Sherri Carter on behalf of Los Angeles County Superior Court) (emphasis added).

from municipal courts, so there clearly is no ongoing need for the authority that the section provides for such personnel.

The following straightforward amendment of Section 53214.5 should therefore suffice:

§ 53214.5 (amended). County deferred compensation plans

SEC. _____. Section 53214.5 of the Government Code is amended to read:

53214.5. A county or city and county ~~which~~ that pays the salaries, either in whole or in part, of judges of the superior ~~and municipal~~ courts and the officers and attachés of those courts may allow the judges, officers, and attachés to participate in any deferred compensation plan established pursuant to this article. Any county or city and county is hereby authorized to enter into a written agreement with the judges, officers, and attachés providing for deferral of a portion of their wages. The judges, officers, and attachés may authorize deductions to be made from their wages for the purpose of participating in the deferred compensation plan.

Comment. Section 53214.5 is amended to reflect unification of the municipal and superior courts pursuant to former Article VI, Section 5(e) of the California Constitution.

The section is also amended to make a grammatical correction.

For purposes of a tentative recommendation, is this approach acceptable to the Commission?

Other Statutes Relating to Judicial Benefits

Having now discussed all of the statutes relating to judicial benefits that the Commission set aside for further study in 2002, it is appropriate to consider whether any other statutes on this topic require revisions to reflect trial court restructuring. In particular, two sets of provisions in the key statutes on judicial retirement (the Judges' Retirement Law ("JRS")⁸⁹ and Judges' Retirement System II ("JRS II")⁹⁰) warrant discussion:

- (1) Sections in JRS or JRS II that refer to counties.
- (2) Sections in JRS or JRS II that refer to municipal or justice courts or their judges.

89. Sections 75000-75111.

90. Sections 75500-75613.

Sections in JRS or JRS II that Refer to Counties

In 2014, the staff identified some provisions in JRS and JRS II that “appeared to involve county contribution to judicial retirement systems.”⁹¹ For convenient reference, those provisions (Sections 75092, 75097, 75103, 75103.3, 75103.5, 75109.7, 75602, 75605, and 75612) are reproduced at Exhibit pages 15-16 and 18, with the key terms in boldface.

As discussed at pages 4-11 of Memorandum 2020-63, it is clear from the *Sturgeon* line of cases and Senate Bill X2 11 that the trial court restructuring reforms were not meant to prevent counties from providing supplemental judicial benefits. It is also clear that the practice is still ongoing.⁹²

Given those circumstances, the references to counties in JRS and JRS II do not appear to be obsolete due to trial court restructuring. **The staff recommends leaving Sections 75092, 75097, 75103, 75103.3, 75103.5, 75109.7, 75602, 75605, and 75612 alone.**

Sections in JRS or JRS II that Refer to Municipal or Justice Courts or Their Judges

JRS and JRS II also contain some sections that refer to municipal or justice courts, or judges of those courts. For convenient reference, those provisions (Sections 75002, 75029, 75029.1, 75029.5, 75033.5, 75076.2, and 75502) are reproduced at Exhibit pages 13-15 and 17-18, with the key terms in boldface.

Although municipal and justice courts no longer exist, there are still some judges who served on those courts, as well as spouses and other named beneficiaries of such judges, who are entitled to retirement benefits under JRS or JRS II. As the Commission has previously discussed, it is not clear how long that situation will last.

The Commission thus has the same options here as discussed above with regard to Section 53200.3:

- Option #1: Belt-and-suspenders (i.e., saving clause and fifty-year sunset period).

For three of the provisions in question (Sections 75029, 75029.1, and 75029.5), this approach would just require the addition of a fifty-year sunset clause. For the other provisions (Sections 75002, 75033.5, 75076.2, and 75502), it would be necessary to (a) amend the existing section to insert a fifty-year sunset clause *and* (b) add a new version of

91. First Supplement to Memorandum 2014-53, p. 9 & n. 56.

92. See, e.g., Judicial Council of California, Historical Analysis of Disparities in Judicial Benefits (Dec. 2009), pp. 15-19.

the section to the codes, which would not refer to municipal or justice courts and would not become operative until fifty years have passed.

- Option #2: Defer clean-up to a later date.
- Option #3: Delete the municipal or justice court reference now and rely on a saving clause to protect vested rights.

For purposes of a tentative recommendation, **how would the Commission like to handle Sections 75002, 75029, 75029.1, 75029.5, 75033.5, 75076.2, and 75502?**

NEXT STEP

This memorandum addresses all of the remaining statutes on judicial benefits the staff is aware of that may contain material made obsolete by trial court restructuring. **If anyone knows of other such statutes, please notify the Commission.**

After the Commission resolves the issues discussed in this memorandum, and any similar issues that come to its attention, the next step will be to prepare a draft of a tentative recommendation for the Commission to review. In April, the Commission decided “not [to] prepare a separate tentative recommendation on representation and indemnification of trial courts and trial court personnel,” because “[t]he proposed revisions relating to that subject might receive more attention if they are put in a tentative recommendation that is broader in scope.”⁹³ **Would the Commission like to combine its preliminary conclusions relating judicial benefits with its preliminary conclusions on representation and indemnification in a single tentative recommendation?**

If so, the staff could also include the technical revisions shown at pages 10-13 of Memorandum 2021-22 (discussing references to “superior courts”). **Would the Commission like to do that?**

Respectfully submitted,

Barbara Gaal
Chief Deputy Director

93. *Draft Minutes* (April 2021), p. 7.

HAROLD W. KENNEDY
COUNTY COUNSEL

MUTUAL 9211

GEORGE W. WAKEFIELD
CHIEF ASSISTANT

DOUGLAS DE COSTER
GORDON BOLLER
WM. E. LAMOREAUX
JOHN D. MAHARG
BALDO M. KRISTOVICH
CLARENCE H. LANGSTAFF
ASSISTANTS

OFFICES OF
THE COUNTY COUNSEL
OF LOS ANGELES COUNTY

~~SIXTH FLOOR~~

~~LOS ANGELES SIXTH FLOOR~~

604 Elks Building
Sacramento 14, California
June 11, 1959

EDWARD H. GAYLORD
ANDREW C. PORTER
LLOYD S. DAVIS
HENRY W. GARDETT
ROBERT C. LYNCH
JOHN H. LARSON
IVER E. SKJEIE
FRED W. BREMENKAMP III
A. R. EARLY
JAMES W. BRIGGS
DAVID D. MIX
WILCOX R. STODDARD
JAMES W. GOODMAN
ALFRED C. DEFEON
RICHARD L. RIEMER
RICHARD A. DEL GUERCIO
PAUL F. LOVERIDGE
JOEL R. BENNETT
EDWIN P. MARTIN
FRED R. METHENY, JR.
NORMAN G. OLIVER, JR.
RONALD LEE SCHNEIDER
ROBERT A. VON ESCH, JR.
JOHN D. CAHILL
C. GEORGE DEUKMEJIAN
TERRY C. SMITH
DAVID M. COOK
JERRY F. HALVERSON
DEPUTIES

Honorable Edmund G. Brown
Governor of California
State Capitol
Sacramento 14, California

Subject: Assembly Bill 2134, Relating to Salaries
for Los Angeles County Superior Court Attaches

Dear Governor Brown:

Assembly Bill 2134, which is now pending before you for consideration, proposes to fix the number and compensation payable to all of the attaches of the Superior Court within the County of Los Angeles.

The bill has been sponsored by the Salary Committee of the Superior Court Judges of our county and has been approved by the Board of Supervisors.

In general, the bill provides for salary increases equivalent to approximately 11% for existing employees in the courts with an additional $5\frac{1}{2}\%$ increase provided for at the commencement of the next fiscal year.


The rates of salary increase provided for in the bill are identical to the increases which have been authorized or are contemplated for county employees generally since the last session of the Legislature.

The Salary Committee of the Superior Court Judges and the Board of Supervisors have worked closely together in an effort to maintain a satisfactory relationship between

the salaries paid court attaches and those paid to other county employees performing similar work. The present bill maintains that relationship and, on behalf of the ~~Board of Supervisors~~ of the County of Los Angeles, we respectfully request your favorable consideration and action on the bill.

Very truly yours,

HAROLD W. KENNEDY
County Counsel

By 
GEORGE W. WAKEFIELD
Chief Assistant County Counsel

GWW/an
cc: Honorable George A. Willson
Assemblyman
State of California
State Capitol
Sacramento 14, California

To: Honorable Edmund G. Brown
Governor of California

Bill Report

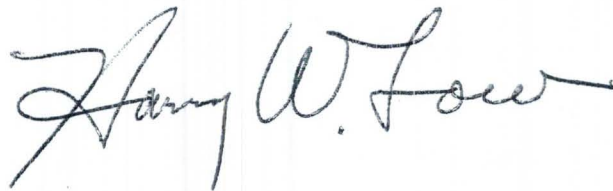
From: Office of the Attorney General

A.B. No. 2134

By Harry W. Low,
Deputy Attorney General

June 16 , 1959.

We have examined the above bill and find no substantial
legal objection thereto.

A handwritten signature in cursive script, reading "Harry W. Low". The signature is written in dark ink and is positioned to the right of the typed name.

89827 1-59 3500 SPO

RALPH N. KLEPS
LEGISLATIVE COUNSEL
ANGUS C. MORRISON
CHIEF DEPUTY
BERNARD CZESLA
GEORGE H. MURPHY
PRINCIPAL DEPUTIES
STANLEY M. LOURIMORE
DEPUTY IN CHARGE
LOS ANGELES OFFICE



STATE OF CALIFORNIA
Office of Legislative Counsel

3021 STATE CAPITOL, SACRAMENTO 14
311 STATE BUILDING, LOS ANGELES 12

June 16, 1959

LAWRENCE G. ALLYN
TERRY L. BAUM
BARBARA C. CALAIS
VIRGINIA COKER
KENT L. DECHAMBEAU
RICHARD E. GARDELLA
J. GOULD
EDEL W. HAWS
ROBERT G. HINSHAW
OWEN K. KUNS
ERNEST H. KUNZI
ANN M. MACKEY
RYAN M. POLSTRA
EDWARD K. PURCELL
RAY H. WHITAKER
ROSE WOODS
DEPUTIES

REPORT ON ASSEMBLY BILL NO. 2134.

GEORGE A. WILLSON.

SUMMARY:

Amends, adds, and repeals various secs., Gov. C., C.C.P., and W. & I.C., re Los Angeles County Superior Court.

Revises and consolidates the provisions providing for the number and compensation of the officers and employees of the Los Angeles County Superior Court. Deletes the provision giving such employees the same benefits, such as sick leave, and vacation, as are given the employees of the county and provides that the court may regulate these benefits.

Specifies that the officers, attaches, and judges of such court shall receive the same traveling and necessary expenses as are given to other county employees. Specifies that the board of supervisors may assign a car in lieu of allowing traveling expenses.

FORM: Approved.

TITLE: Approved.

CONSTITUTIONALITY: Approved.

COMMENT:

Section 575 of the Welfare and Institutions Code was previously amended at this session by Chapter 396 (Senate Bill No. 592) to increase the salary of juvenile court referees in San Francisco County. Assembly Bill No. 2134 makes an identical change.

Ralph N. Kleps
Legislative Counsel

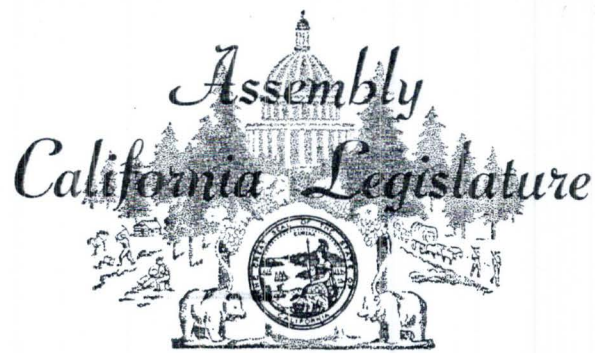
By *Richard T. Wilsdon*
Richard T. Wilsdon
Deputy Legislative Counsel

RTW:cs

LAW OFFICES
WILLSON AND SULLIVAN
2746 FLORENCE AVENUE
HUNTINGTON PARK
PHONE: LUDLOW 9-5354

SACRAMENTO ADDRESS
ROOM 4167
STATE CAPITOL
ZONE 14

COMMITTEES
MUNICIPAL AND COUNTY
GOVERNMENT
ELECTIONS AND
REAPPORTIONMENT
FINANCE AND INSURANCE
JUDICIARY—CIVIL



GEORGE A. WILLSON
MEMBER OF ASSEMBLY, FIFTY-SECOND DISTRICT
VICE CHAIRMAN
COMMITTEE ON JUDICIARY—CIVIL

June 18, 1959

Honorable Edmund G. Brown, Governor
State of California
State Capitol
Sacramento, California

Dear Governor Brown:

RE: Assembly Bill 2134

This bill was given to me to carry by Los Angeles County representatives. It applies only to the Los Angeles County Superior Court.

The purpose of this bill is to revise and consolidate provisions relating to compensation of officers and employees of the Los Angeles County Superior Court. I believe it is a meritorious bill and respectfully urge your signature to it.

Yours truly,


GEORGE A. WILLSON

GAW:○

LAW OFFICES
RUFFS BUILDING
205 MONTGOMERY STREET
SAN FRANCISCO 4
EX BROCK 2-8900

HOME ADDRESS
2111 FRANKLIN STREET
SAN FRANCISCO 9

SACRAMENTO ADDRESS
STATE CAPITOL
ZONE 14

AB 2134

COMMITTEES
GOVERNMENT ORGANIZATION
JUDICIARY—CIVIL
NATURAL RESOURCES, PLANNING,
AND PUBLIC WORKS
PUBLIC HEALTH

Assembly California Legislature

MILTON MARKS

MEMBER OF ASSEMBLY, TWENTY-FIRST DISTRICT

VICE CHAIRMAN

COMMITTEE ON GOVERNMENT ORGANIZATION

June 19, 1959

C
O
P
Y

Mr. Julian Beck
Legislative Secretary
Governor's Office
State Capitol

Dear Julian:

In accord with our telephone conversation yesterday I am writing this letter to you with reference to AB 2564, which I introduced, and also in connection with AB 2134 introduced by George Willson.

Both bills relate to some degree with the question of compensation for superior court reporters, but they differ in the following respect that AB 2134 concerns persons other than reporters and AB 2564 has a proviso for a filing fee which does not appear in AB 2134.

You will note, however, that with respect to the compensation of superior court reporters that both bills provide for the same compensation to be paid in Los Angeles and San Francisco. I put in AB 2564 after AB 2134 was introduced so that in the event AB 2134 were to be passed the parity which exists between the compensation in San Francisco and Los Angeles concerning reporters would continue. Inasmuch as the bills contain provisions which are not identical as to matters not relating to the compensation of shorthand reporters, I would respectfully request both bills be favorably considered for signature by the Governor.

Mr. Julian Beck

-2-

June 19, 1959

Rather than dictate a separate letter to you concerning both bills, I am sending you a copy of this letter so that you can put in the files for AB 2134 and AB 2564.

Cordially,

MILTON MARKS

MM:ar

cc: Honorable George A. Willson

BILL MEMORANDUM

Date: June 25, 1959

To: GOVERNOR BROWN

From: Julian Beck

Assembly BILL No. 2134

By George Willson, Miller and Munnell

VOTE: Senate 39 - 0

Assembly 59 - 0

Assembly - concurred in Senate amendment 71 - 0.

Assembly Bill 2134 amends, adds and repeals certain sections of the Government Code, Code of Civil Procedure and Welfare and Institutions Code re Los Angeles County Superior Court. Revises the provisions providing for the number and compensation of officers and attaches of the Los Angeles County Superior Court. Provides that the Court may regulate the sick leave, vacation, etc., benefits of such employees instead of the existing provision giving such employees the same benefits as those given other employees in the County. Provides that the officers and attaches, and judges of the Superior Court shall receive the same traveling expenses as given to other County employees. Permits the Board of Supervisors to assign a car in lieu of allowing traveling expenses. This bill repeats the same salary increase given Juvenile Court referees in San Francisco by Senate Bill 592, Chapter 396.

No opposition in the Legislature.

County Counsel of Los Angeles urges approval as does Louis H. Burke, Presiding Judge of the Los Angeles Superior Court.

Recommendation: Approve. (Loebl)

JDL:vb

You have already
failed to represent
of LA County Council
Office (General
on general subject)

Julian - Advise interested parties
that in future I will veto unless
discussed with me in advance
of introduction.

EX 8

CALIFORNIA LAW REVISION COMMISSION

4000 MIDDLEFIELD ROAD, ROOM D-2
PALO ALTO, CA 94303-4739



April 5, 2021

Hon. Eric Taylor
Presiding Judge
Stanley Mosk Courthouse
111 North Hill Street
Los Angeles, CA 90012

Sherri R. Carter
Executive Officer / Clerk of Court
Stanley Mosk Courthouse
111 North Hill Street
Los Angeles, CA 90012

**Re: CLRC Study on *Statutes Made Obsolete by Trial Court Restructuring*
(Part 8) — Judicial Benefits**

Dear Presiding Judge Taylor and Ms. Carter:

On behalf of the California Law Revision Commission, thank you again for commenting on CLRC Staff Memorandum 2021-9, which discusses the possibility of updating certain statutes relating to judicial benefits (Gov't Code §§ 53200.3, 53214.5, 69894.3, 69894.4) to reflect the trial court restructuring reforms that occurred about twenty years ago. The Commission considered your court's comments and other input at a public meeting in late February and directed me to seek further information from your court.

The Commissioners asked many questions at the meeting and reached few conclusions, other than that they would like more information. Ideally, they would appreciate having someone knowledgeable from your court participate in an upcoming Commission meeting, to answer questions and help the Commission determine the best way to proceed. Possible dates include May 21, June 24, and July 22.

We recognize that the court is under pressure and may prefer to provide further written input instead of, or in addition to, participating in an upcoming Commission meeting. To help facilitate that, here's some background information and a summary of key issues for your consideration:

Background Information

- Minutes of the recent Commission meeting are available at: <http://www.clrc.ca.gov/pub/Minutes/Minutes2021-02.pdf> (see pp. 3-4).
- A video recording is available at: http://www.clrc.ca.gov/Menu1_meetings/video.html (see Part 2 of the 2/25/21 meeting, starting at Minute 5:00).
- To date, the Commission's staff has prepared three memoranda on this subject: An introductory memorandum (CLRC Staff Memorandum 2020-63), the memorandum that your court already reviewed (CLRC Staff Memorandum 2021-9), and a supplement to that memorandum, which presents the comments

from your court and some other information (First Supplement to CLRC Staff Memorandum 2021-9). All of those memoranda are available at <http://www.clrc.ca.gov/J1407.html>.

Key Issues

- Do Government Code Sections 69894.3 and 69894.4 apply only to Los Angeles County? Should they be amended to more clearly specify the pertinent county or counties?

We are seeking information on this point from the State Archives. See also CLRC Staff Memorandum 2021-9, pp. 3-4; First Supplement to CLRC Staff Memorandum 2021-9, p. 3 & Exhibit pp. 5-9. We would much appreciate insight or advice from your court on this matter.

- Why does your court say that “[e]xisting Judicial Council policy provides insufficient clarity regarding the assignment of automobiles”? Does Government Code Section 69894.4 add anything other than statutory authority?
- In 2001, your court said that “[t]he portion of section 69894.4 pertaining to assignment of an automobile should be retained, substituting the Court as the entity determining whether an automobile in lieu of reimbursement would better serve the interests of the court.” See CLRC Staff Memorandum 2002-14, Exhibit p. 57 (available at <http://www.clrc.ca.gov/pub/2002/MM02-14.pdf>). That approach could be implemented as shown in Exhibit A to this letter. Would such an approach still be acceptable to your court? If not, why not?
- Government Code Section 53200.3 refers to “judges of the superior *and municipal courts* and the officers and attaches of said courts whose salaries are paid either in whole or in part from the salary fund of the county” (Emphasis added.) Similarly, Government Code Section 53214.5 refers to “judges of the superior *and municipal courts* and the officers and attaches of those courts” (Emphasis added.) Should the references to the municipal courts be deleted as obsolete, or updated in some manner (e.g., by referring to “former municipal courts” or “former judges of municipal courts”)?

The Commissioners might also have other questions about the code sections discussed in CLRC Staff Memorandum 2021-9. If your court could address the above issues, however, that would go a long way towards resolving the Commissioners’ concerns.

Thank you very much for whatever assistance you are able to provide with regard to these matters. We are eager to hear what your court has to say.

Sincerely,

Barbara Gaal
Chief Deputy Director

File: J-1407
cc: Robert J. Oftring, Jr.
Michael Belote

Exhibit A

§ 69894.4 (amended). Expense allowances

SEC. _____. Section 69894.4 of the Government Code is amended to read:

~~69894.4. All of the employees provided for in Section 69894.1 and judges of the superior court in each county having a population of over 2,000,000 shall be allowed actual traveling and necessary expenses incurred while engaged in the duties of their office, which shall be the same as allowed to officers and employees of such county. Any expenses for travel outside of the county shall require the prior approval of the board of supervisors.~~

Whenever, In each county having a population of over 2,000,000, whenever, because of the nature of the duties of any judge or officer of the court, the board of supervisors court determines that the best interest of the county and the court would be served, it may assign an automobile in lieu of allowing travel expenses.

~~The salaries provided for in said Section 69894.1 shall be paid by the county out of such fund as other salary demands against the county are paid. The expenses provided for in this section shall be paid in monthly installments out of the general fund. Salaries and expenses shall be audited in the same manner as the law requires for other demands against the county.~~

Comment. Section 69894.4 is amended to reflect:

(1) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71620 (trial court personnel), 71623 (salaries), 71673 (authority of court).

(2) Enactment of Section 69505 (business-related travel expenses of trial court judges and employees).

(3) Enactment of the Trial Court Funding Act. See Sections 77001 (local trial court management), 77003 and Cal. R. Ct. 810 (“court operations” defines), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).

(4) Repeal of former Section 69894.1. See 2002 Cal. Stat. ch. 784, § 310; see also *Statutes Made Obsolete by Trial Court Restructuring: Part 1*, 32 Cal. L. Revision Comm’n Reports 1, 279-80 (2002).

May 3, 2021

Barbara Gaal, Chief Deputy Director
California Law Revision Commission
4000 Middlefield Road, Room D-2
Palo Alto, CA 94303
bgaal@clrc.ca.gov

Dear Ms. Gaal:

The Superior Court of California, County of Los Angeles (Court) is in receipt of your letter dated April 5, 2021 concerning the response the Court provided to the California Law Revision Commission (CLRC) on February 22, 2021 regarding CLRC Staff Memorandum 2021-9, which discusses the possibility of updating certain statutes relating to judicial benefits (Government Code sections 53200.3, 53214.5, 69894.3, 69894.4) to reflect trial court restructuring. The Court provides the following responses to the questions posed in your letter.

Regarding the question of whether Government Code sections 69894.3 and 69894.4 apply only to Los Angeles County, by their own terms, they apply in each county having a population of over 2,000,000. According to the United States Census Bureau, that now includes San Diego County (3,338,330), Orange County (3,175,692), Riverside County (2,470,546), and San Bernardino County (2,180,085).¹ How broadly the statute applies is under the purview of the Legislature.

Regarding the proposed amendments to Government Code section 69894.4, as laid out in *Exhibit A* of the letter, the Court agrees with the proposed amendments.

Regarding the question of amending Government Code section 53200.3 to delete references to municipal courts as obsolete, the Court points out that there are no remaining employees of municipal courts in California.

We trust you find this feedback helpful. Please feel free to contact the Court if you have any further questions.

Sincerely,


Sherri R. Carter

¹ Quick Facts, U.S. Census Bureau.

<https://www.census.gov/quickfacts/fact/table/sanbernardinocountycalifornia,riversidecountycalifornia,orangecountycalifornia,sandiegocountycalifornia,US/PST045219>

Excerpts from the Judges' Retirement Law
(Gov't Code §§ 75000-75111)

Sections That Refer to Municipal or Justice Courts

75002. "Judge" means a justice of the Supreme Court or of a court of appeal, or a judge of a superior court, **municipal court, or justice court**. A retired justice court judge does not acquire status as a judge for the purposes of this chapter by reason of designation as a judge pro tempore of, or assignment by the Chairperson of the Judicial Council to, any of these courts.

"Judge" shall not mean a **justice court judge** who elected pursuant to Section 75029.5 to be restored to membership in the Public Employees' Retirement System.

75029. For any judge who, prior to becoming a judge, served as a "judge of an excluded court" as defined below, there shall be included in the computation of the number of years of service as a judge the number of years he or she served as a "judge of an excluded court" if prior to the effective date of his or her retirement he or she has paid into the Judges' Retirement Fund a sum equal to the amount that would have been deducted from his or her salary and paid into that fund had he or she been a judge, during the time he or she was a "judge of an excluded court," computed by applying to the rate of salary that he or she actually received during his or her first year of service as a judge the rate of deduction applicable to judges' salaries during that year.

As used in this section "judge of an excluded court" means a **judge of a justice court or a judge, justice of the peace, or recorder of a court provided for by law prior to January 1, 1952**.

A judge shall not, under this section, receive credit for that portion, if any, of his or her service as a judge of an excluded court, if other provisions of this chapter provide for the inclusion of that service in the computation of his or her years of service as a judge.

75029.1. On and after January 1, 1990, the right to elect to receive credit for prior service as a judge of an excluded court pursuant to Section 75029 shall apply only to a justice of the Supreme Court or a court of appeal or a judge of a superior or **municipal court**.

75029.5. Notwithstanding any other provision of law, any **justice court judge** who was a member of the Public Employees' Retirement System on December 31, 1989, and became a member of this system on January 1, 1990, pursuant to Chapter 1417 of the Statutes of 1989, may irrevocably elect to be restored to membership in the Public Employees' Retirement System effective January 1, 1990. The board shall provide the affected members with an election period commencing on July 1, 1992, and ending on September 30, 1992.

Any **justice court judge** who elects membership in the Public Employees' Retirement System pursuant to this section shall be refunded his or her accumulated contributions in this system for the period January 1, 1990, through the date of election and deposit in the Public Employees' Retirement Fund the amount required by that system.

75033.5. Notwithstanding any other provision of this chapter, any judge with at least five years of service, may retire, and upon his or her application therefor to the Judges' Retirement System after reaching the age which would have permitted him or her to retire for age and length of service under Section 75025 had he or she remained continuously in service as a judge up to that age, receive a retirement allowance based upon the judicial service as a judge of a court of record, with which he or she is credited, in the same manner as other judges, except as otherwise provided by this section the retirement allowance is an annual amount equal to 3.75 percent of the compensation payable, at the time payments of the allowance fall due, to the judge holding the office which the retired judge last held prior to his or her discontinuance of his or her service as judge, multiplied by the number of years and fractions of years of service with which the retired judge is entitled to be credited at the time of his or her retirement, not to exceed 20 years.

A **judge of a justice court** who renders part-time service after January 1, 1990, shall receive a reduced retirement allowance based upon actual service rendered.

If a judge has served more than five years but less than 12 years, the above percentage of compensation payable shall be reduced 0.25 percent for each year that the service of the judge is less than 12 years. For the purposes of calculating the percentage of compensation payable, part-time service shall be the equivalent of full-time service.

No judge shall be eligible to receive an allowance pursuant to this section until the attainment of at least age 63 unless the judge is credited with 20 years of judicial service and has attained age 60.

The surviving spouse of any judge who has so elected to retire under this section shall receive for life an allowance equal to one-half of the retirement allowance that would be payable to the judge were he or she living and receiving the benefits accorded by this section, commencing with the day following the date of the death, if the judge dies after commencement of receipt of benefits, or the date the judge would have been able to commence receipt of benefits but for his or her death, if his or her death occurs prior to commencement of receipt of benefits.

An election to retire under this section shall be made in writing and filed with the Judges' Retirement System, and shall be without right of revocation, and upon that filing the judge shall be deemed retired with receipt of benefits deferred until herein provided, and the judicial office from which he or she has retired shall become vacant. The notice and election of retirement shall be sufficient if it states in substance that the judge elects to retire under the benefits of this section.

A judge who leaves his or her office prior to July 21, 1997, to accept any lucrative office under the United States within the purview of Section 7 of Article VII of the Constitution shall have any benefits receivable hereunder reduced by the amount of any salary or retirement benefits he or she receives by virtue of his or her service in that office. This paragraph shall not apply to any judge who left office on or after July 21, 1997.

75076.2. A judge who renders part-time service after January 1, 1990, shall receive a reduced retirement allowance. The reduction shall be based upon the relationship between the actual service rendered by the judge, including service rendered by reason of sitting on assignment, and a full-time judge's service during the period from January 1, 1990, until the date of retirement. Computations under this section and subdivision (a) of Section 75076 shall consider the salary payable to the **judge of a municipal or justice court** to be equal to 91.3225 percent of the salary of a superior court judge. For purposes of qualifying for retirement, part-time service shall be the equivalent of full-time service.

Sections That Refer to Counties

75092. Any judge electing to come within this article shall contribute two dollars (\$2) a month to the Judges' Retirement Fund. Such contribution shall be deducted from the monthly salary of each judge so electing by the State Controller and each **county auditor** in the same manner as deductions are made pursuant to Sections 75102 and 75103. The Legislature reserves the right to increase the rate of contribution prescribed by this section in such amount as it may find appropriate.

75097. Any judge electing to come within this article shall contribute three dollars (\$3) a month to the Judges' Retirement Fund. The contribution shall be deducted from the monthly salary of each judge so electing by the Controller and each **county auditor** in the same manner as deductions are made pursuant to Sections 75102 and 75103. The Legislature reserves the right to increase the rate of contribution prescribed by this section in such amount as it may find appropriate.

75103. Except as provided in Section 75103.3, the **auditor of each county** shall deduct 8 percent from the portion paid by a **county** of the monthly salary, not including the additional compensation pursuant to Section 68203.1, of each judge of the superior court and cause this amount to be paid into the Judges' Retirement Fund.

75103.3. Notwithstanding any other provision of law, the state and **the county** may pick up, for the sole purpose of deferring income taxes thereon, as authorized by Section 414(h)(2) of the Internal Revenue Code (26 U.S.C.A. Sec. 414(h)(2)) and Section 17501 of the Revenue and Taxation Code, all of the normal

contributions required to be deducted under Sections 75102 to 75103, inclusive, and paid into the Judges' Retirement Fund. The payments shall be reported as employer-paid normal contributions and shall be credited to the judge's account.

Nothing in this section shall be construed to limit the authority of the state or the county to periodically eliminate the pickup by the state of all of the normal contributions required to be paid by a judge, as authorized by this section.

This section shall not affect the computation of a judge's retirement allowance.

75103.5. No **county** shall directly or indirectly pay from its funds the member contributions to the Judges' Retirement Fund required by this article.

75109.7. The board may assess a **county** a reasonable amount to cover costs incurred because of the **county's** failure to submit reports within 30 days of the date the reports are due. The payments of the assessments shall be credited to the Judges' Retirement Fund.

The board may charge interest on the amount of any payment due and unpaid by a **county** until payment is received. Interest shall be charged at a rate approximating the average rate received on moneys then being invested. The interest charged shall be deemed interest earnings in the year in which received.

Excerpts from Judges' Retirement System II
(Gov't Code §§ 75500-75613)

Section That Refers to Municipal and Justice Courts

75502. (a) "Judge" means a justice of the Supreme Court or of a court of appeal, or a judge of a superior court, **municipal court, or justice court** who is first elected or appointed to judicial office on or after November 9, 1994, and is not a member of the Judges' Retirement System pursuant to Chapter 11 (commencing with Section 75000). A retired judge does not acquire status as a judge for the purposes of this chapter by reason of designation as a temporary judge of, or assignment by the Chairperson of the Judicial Council to, any of these courts.

A former member of the Judges' Retirement System under Section 75002 who withdrew his or her contributions upon leaving office, and who takes judicial office on or after November 9, 1994, becomes a member of the system existing under Chapter 11 (commencing with Section 75000) and does not become a member of the Judges' Retirement System II. No person shall be a member of the Judges' Retirement System II who is or ever has been a member of the Judges' Retirement System pursuant to Chapter 11 (commencing with Section 75000).

(b) "System" means the Judges' Retirement System II established by this chapter.

(c) "Service" means the period of time a judge received a salary and made contributions to the system by reason of holding office as a judge of any one or more of the courts of this state specified in subdivision (a), computed in years and fractions of years.

(d) "Final compensation" means the average monthly salary of a judge during the 12 months immediately preceding his or her retirement from or otherwise leaving judicial office and as limited by Section 75572.

(e) "Benefit factor" means the percentage used in calculating a judge's monthly retirement allowance under Section 75522.

(f) "Contributions" means the accumulated deductions from the judge's salary under Sections 75601 and 75602. References to payment to a judge of his or her contributions or to the determination of a judge's and spouse's shares in the contributions include both the contributions and interest thereon at the rates determined by the Board of Administration of the Public Employees' Retirement System.

(g) "Salary" means the compensation received by a judge as the emolument of the office of judge, but does not include any additional compensation received by reason of designation as a temporary judge or assignment by the Chairperson of the Judicial Council or the additional compensation pursuant to Section 68203.1.

(h) "Board" means the Board of Administration of the Public Employees' Retirement System.

(i) “Fund” or “retirement fund” means the Judges’ Retirement System II Fund established pursuant to Section 75600.

(j) All references to “spouse,” “surviving spouse,” or “marriage” in this chapter apply equally to a domestic partner or domestic partnership, as defined in Section 297 of the Family Code, and all rights and responsibilities granted to a spouse or surviving spouse shall be granted equally to a domestic partner to the extent provided by Section 297.5 of the Family Code.

Sections That Refer to Counties

75602. Except as provided in Section 75605, the Controller or the **auditor of each county** shall deduct 8 percent from the portion paid by a **county**, or the Controller and **the auditor**, if appropriate, of the monthly salary, not including the additional compensation pursuant to Section 68203.1, of each judge of the superior court and cause this amount to be paid into the Judges’ Retirement System II Fund.

75605. (a) Notwithstanding any other provision of law, the state and the **county** may pick up, for the sole purpose of deferring income taxes thereon, as authorized by Section 414(h)(2) of the Internal Revenue Code (26 U.S.C.A. Sec. 414(h)(2)) and Section 17501 of the Revenue and Taxation Code, all of the normal contributions required to be deducted under Sections 75601 and 75602, inclusive, and paid into the Judges’ Retirement System II Fund. The payments shall be reported as employer-paid normal contributions and shall be credited to the judge’s account.

(b) Nothing in this section shall be construed to limit the authority of the state or the **county** to periodically eliminate the pickup by the state of all of the normal contributions required to be paid by a judge, as authorized by this section.

(c) This section shall not affect the computation of a judge’s retirement allowance pursuant to this chapter.

75612. (a) The board may assess a **county** a reasonable amount to cover costs incurred because of the **county’s** failure to submit reports within 30 days of the date the reports are due. The payments of the assessments shall be credited to the Judges’ Retirement System II Fund.

(b) The board may charge interest on the amount of any payment due and unpaid by a **county** until payment is received. Interest shall be charged at a rate approximating the average rate received on moneys then being invested. The interest charged shall be deemed interest earnings in the year in which received.